

REMARKS

In the Final Office Action, claim 47 was objected to and claims 1, 2, 5-14, 23, 24, 26-28, 41-46, 48-53, and 55-58 were rejected under the judicially created doctrine of double-patenting, under 35 U.S.C. §103, or a combination of both. In addition, claims 1, 2, 5, 6, 8, 14, 41-45 were provisionally rejected under the judicially created doctrine of double-patenting. Although Applicants believe the present claims are clearly distinguished from the parent patent and the co-pending application, Applicants herewith file a Terminal Disclaimer to address the double-patenting rejection, and have amended claims 1, 2, 6, 7, 9, 10, 12, 14, 23, 24, 27, 28, 41-44, 51-53, and 56-58 to incorporate subject matter similar to that of claim 46, indicated as being allowable.

Double-Patenting Rejections

The Examiner rejected claims 46 and 48-50 under the judicially created doctrine of obviousness-type double patenting in view of Koritzinsky et al. (U.S. Pat. No. 6,272,469) and Wyman (U.S. Pat No. 5,260,999). Applicants respectfully traverse this rejection.

In view of the circumstances, although Applicants do not necessarily agree with the Examiner's rejection, Applicants nonetheless file herewith a properly executed Terminal Disclaimer to obviate the Examiner's obviousness-type double patenting rejection. Therefore, Applicants respectfully submit that the present claims 46-50 are now in condition for allowance.

Provisional Double Patenting Rejection

The Examiner rejected claims 1, 2, 5, 6, 8, and 14 under the judicially created doctrine of obviousness-type double patenting in view of claims 59-64 and 67 of co-pending application, Koritzinsky et al. (U.S. Pat. Application No. 09/476,708). Also, the Examiner rejected claims 41-45 under the judicially created doctrine of obviousness-type double patenting in view of claims 62 and 69-72 of co-pending '708 application. Because

the present amendments and Terminal Disclaimer are expected to place the present application in condition for allowance, the Provisional Rejection will become moot upon allowance of the amended claims.

Rejections Under 35 U.S.C. § 103

In the Office Action, the Examiner rejected claims 1, 2, 5-14, 23-24, 26-28, 41-45, 51-53, and 55-58 under 35 U.S.C. § 103(a) as being unpatentable over various references and assertions. Specifically, claims 1, 5, 10, 11, 14, 51, 52, and 58 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Wood et al. (U.S. Pat. No. 5,891,035) in view of Wyman (U.S. Pat. No. 5,260,999). Claims 2, 6, 8, 9, 12, 23-24, 26-28, 41, 43, 53, and 55-57 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Wood et al. (U.S. Pat. No. 5,891,035) in view of Wyman (U.S. Pat. No. 5,260,999) and Official Notice. Claims 7, 44, and 45 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Wood et al. (U.S. Pat. No. 5,891,035) in view of Wyman (U.S. Pat. No. 5,260,999), Reeder (U.S. Pat. No. 5,852,812), and Official Notice. Claim 13 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Wood et al. (U.S. Pat. No. 5,891,035) in view of Wyman (U.S. Pat. No. 5,260,999) and Narayanaswami et al. (U.S. Pat. No. 6,504,571). Claim 42 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Wood et al. (U.S. Pat. No. 5,891,035) in view of Wyman (U.S. Pat. No. 5,260,999), Official Notice, and admitted prior art.

Although Applicants do not agree with the Examiner's rejections, Applicants recognize that the Examiner has indicated that other claims contain allowable subject matter. Specifically, the Examiner stated that claim 46 includes allowable subject matter, generally relating to providing different modality protocols to different modality diagnostic systems. Accordingly, Applicants have chosen to place the application in condition for allowance by amending the independent claims 1, 23, 41, and 51 to include similar allowable subject matter.

Based on the foregoing, Applicants respectfully request entry of the amendments. As these amendments are believed to place the claims in condition for allowance, Applicants respectfully request that the Examiner reconsider the claims and withdraw the rejections.

Conclusion

In view of the remarks and amendments set forth above, Applicants respectfully request allowance of the pending claims. If the Examiner believes that a telephonic interview will help speed this application toward issuance, the Examiner is invited to contact the undersigned at the telephone number listed below.

Respectfully submitted,

Date: 8/6/2003

✓
PG
Patrick S. Yoder
Reg. No. 37,479
Fletcher Yoder
P.O. Box 692289
Houston, TX 77269-2289
(281) 970-4545